

## **REMARKS**

Claims 1, 6, 8-15, 26-29, and 32 are pending in the application.

Claims 1, 6, 8-15, 26-29, and 32 are currently amended. Claims 2-5, 7, 16-25, 30, 31, and 33 are cancelled. Applicant respectfully submits that no new matter is added to currently amended claims 1, 6, 8-15, 26-29, and 32.

Applicant further respectfully submits that entry of currently amended claims 1, 6, 8-15, 26-29, and 32 is proper because currently amended claims xx will either place the application in condition for allowance or in better form for appeal.

Claims 1-12, 14, 26-30, and 32 stand rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent Application Publication No. 2002/0029185 to Tanaka et al., hereinafter, Tanaka, in view of U.S. Patent No. 6,625,643 to Colby et al., hereinafter, Colby.

Claims 13 and 15 stand rejected under §35 U.S.C. §103(a) as unpataentable over Tanaka, Colby, and U.S. Patent No. 6,154,778 to Koistinen, hereinafter, Koistinen.

Applicant respectfully traverses the rejections based on the following discussion.

### **I. The Prior Art Rejections**

#### **A. The 35 U.S.C. 103(a) Rejection over Tanaka and Colby**

##### **1. The Tanaka Disclosure**

Tanaka discloses a brokerage server for performing a brokerage service is provided to assist a user to select auction sites on the Internet when a user puts up his or her own commodity at a plurality of auction sites simultaneously. The brokerage server, which resides between an information terminal of the user and the auction servers, in response to a process request from the information terminal, refers to an auction site information file to locate the auction sites suitable for the user's requirements and sends information about the suitable auction sites to an information terminal so that the user can select the auction sites where the commodity is to be put up. After registration of the commodity at the selected auction servers, the brokerage server monitors trading status at the sites where the commodity is auctioned and performs the brokerage service until termination of the auction. (Abstract, which is cited by the Final Action).

Tanaka also discloses that the method for auction brokerage service is provided by a computer that resides between an information terminal of a user and auction servers to perform brokerage operations for an auction, in which the method comprises the steps: communicating with the information terminal to locate the auction servers suitable for the user's requirement; communicating with the auction servers that have been selected by the user from the located auction servers to receive notification confirming that an auctioned commodity of the user has been registered at the auction servers; communicating with the auction servers to receive auction result information; and communicating with the information terminal to notify of the auction result information. (Paragraph [0005], which is cited by the Office Action).

Tanaka further discloses in Fig. 1 a system including a brokerage server 230 for an auction brokerage service. The system comprises a plurality of information terminals 211, auction servers 221 which are installed on each auction site, a brokerage server 230 which resides between the information terminals 211 and the auction servers 221, and the Internet which is a network interconnecting the apparatuses. The information terminal 211 is a computer-terminal apparatus such as a personal computer, a mobile terminal and the like, which requests to put up a commodity at an auction. The auction servers 221 are computers that, in response to a request for putting up of the commodity, register and disclose auction information about the commodity to the public and accept tenders from other information terminals (not shown). In the following, any of the plurality of auction servers 221-1, 221-2, 221-3 and so is designated collectively as auction server(s) 221. The brokerage server 230 is a computer such as a purpose-built server computer, a personal computer and the like. (Paragraph [0017], which is cited by the Final Action). The brokerage server 230 stores a user information file 250 and an auction site information file 260 on its storage device. The user information file 250 holds both the users authentication information and separate pieces of personal user information 251, each one of which stores personal information and auction use history for each user separately. The auction site information file 260 holds separate pieces of auction site information 261, each one of which includes a site name (a site identifier), a site address, a field of commodities/items, commission charged or not, an auction period and the like for each auction server 221 separately. (Paragraph [0018], which is cited by the Final Action).

## **2. The Colby Disclosure**

Colby discloses a broadcast manager that automatically commits resources and sets up network interconnections to produce a broadcast session on a data network. The broadcast manager automatically monitors usable network resources, tracks current data streams in the data network and tracks network resources that are used by the current data streams to determine how resources are to be allocated. A system constructed according to the invention may be used to provide multimedia distribution service that enables publishers to register multimedia presentations with the service and enables viewers to view these presentations. (Abstract, which is cited by the Final Action).

Colby also discloses that the invention is directed to a system and method for managing the broadcast of data over a data network. To provide services for a scheduled broadcast event, a broadcast manager automatically commits system resources and sets up network interconnections for the broadcast. For example, the broadcast manager may automatically monitor usable network resources to determine which resources can be allocated. The broadcast manager may also track network resources that are used by those current data streams to determine how resources are to be allocated. (col. 3, lines 1-21, which is cited by the Final Action).

Colby further discloses a system constructed according to the invention provides multimedia distribution service that enables publishers to register multimedia presentations with the service and enables viewers to view these presentations. Network servers are provided for the publishers to load the presentations for viewing. Publishers can specify when a presentation is to be accessible. Publishers can specify which viewers are allowed to view the presentations. Viewers may log into the service using standard web browsers to view the presentations. ... The broadcast manager uses information obtained from the scheduler and the publisher to automatically commit resources and set up network interconnections to produce a broadcast session on the network. The scheduler performs the event scheduling when a publisher schedules an event (broadcast), provides information about event schedules, and tracks events as they take place. The publisher provides management services for publishers including initial signup, account maintenance, credit card processing, access and broadcast authorization, and

usage tracking. (col. 3, lines 22-45, which is cited by the Final Action).

### **3. Arguments**

Currently amended, independent claims 1 and 32 recite in relevant part,

"determining monitoring requirements of said new consumer, wherein said monitoring requirements include:

a list of data resources monitored for said new consumer;

metrics of said monitoring data for said new consumer;

a data format for monitoring data provided to said new consumer;

a time interval between periods of sending said monitoring data to said new consumer; and

actions taken during failure of said data resource;

comparing the monitoring requirements of the new consumer with monitoring capabilities of a plurality of monitoring entities to identify at least one monitoring entity including monitoring capabilities matching the monitoring requirements of the new consumer, wherein:

said monitoring entities monitor said data resources of said data processing network; and

said monitoring capabilities including one or more of:

a current set of data resources being monitored by each of said plurality of monitoring entities;

a set of data resources which each of said plurality of monitoring entities is capable of monitoring;

monitoring metrics which each of said plurality of monitoring entities is currently monitoring;

monitoring metrics which each of said plurality of monitoring entities is capable of currently monitoring;

a current monitoring period; and

data format capabilities of each of said plurality of monitoring entities."

Similarly, currently amended, independent claims 26 and 29 recite in relevant part,  
"a data storage unit for storing:

monitoring requirements of a new consumer, said monitoring requirements  
including:

a list of data resources monitored for said new consumer;  
metrics of said monitoring data for said new consumer;  
a data format for monitoring data provided to said new consumer;  
a time interval between periods of sending said monitoring data to said

new consumer; and

actions taken during failure of said data resource; and

monitoring capabilities of each of a plurality of monitoring entities, said  
monitoring capabilities including one or more of:

a current set of data resources being monitored by each of said plurality of  
monitoring entities;

a set of data resources which each of said plurality of monitoring entities  
is capable of monitoring;

monitoring metrics which each of said plurality of monitoring entities is  
currently monitoring;

monitoring metrics which each of said plurality of monitoring entities is  
capable of currently monitoring;

a current monitoring period; and

data format capabilities of each of said plurality of monitoring entities;

and

a monitoring manager, responsive to monitoring requirements of said new consumer, for  
comparing the monitoring requirements of the new consumer with monitoring capabilities of said  
plurality of monitoring entities stored in the data storage unit to identify at least one monitoring  
entity including monitoring capabilities matching the monitoring requirements of the new  
consumer, wherein said monitoring entities monitor said data resources of said data processing  
network".

Tanaka merely discloses a brokerage server interposed between a user's information terminal and a plurality of auction servers. The brokerage server monitors brokerage activities and stores user information and auction site information, including a site name (a site identifier), a site address, a field of commodities/items, commission charged or not, and an auction period for each auction server.

Colby merely discloses a broadcast manager that automatically commits resources and sets up network interconnections to produce a broadcast session on a data network. The broadcast manager automatically monitors usable network resources, tracks current data streams in the data network and tracks network resources that are used by the current data streams to determine how resources are to be allocated.

The present invention includes the features of: (1) determining monitoring requirements of a new consumer, where the monitoring requirements include a list of data resources to be monitored for the new consumer, metrics of the monitored data for the new consumer, a data format for monitoring data provided to the new consumer, a time interval between periods of sending the monitoring data to the new consumer, and actions taken during failure of the data resource; and (2) comparing the monitoring requirements of the new consumer with monitoring capabilities of a plurality of monitoring entities to identify at least one monitoring entity that has monitoring capabilities matching the monitoring requirements of the new consumer entity, where monitoring capabilities include one or more of a current set of data resources being monitored by each of the plurality of monitoring entities, a set of data resources which each of the plurality of monitoring entities is capable of monitoring, monitoring metrics which each of the plurality of monitoring entities is currently monitoring; monitoring metrics which each of the plurality of monitoring entities is capable of currently monitoring, a current monitoring period, and data format capabilities of each of the plurality of monitoring entities.

In contrast, Tanaka and Colby, either individually or in combination, do not disclose, teach or suggest *inter alia* determining monitoring requirements for a new customer (or user) to their networks, which may include metrics of the monitoring data, a data format for the monitoring data to be provided to a new customer, a determined time interval between periods of sending the monitoring data to the new consumer, and actions to be taken during failure of the

monitored data resource.

Furthermore, Tanaka and Colby, either individually or in combination, do not disclose, teach or suggest comparing the monitoring requirements of a new consumer with the existing monitoring capabilities of a plurality of monitoring entities to identify at least one monitoring entity from the existing network having monitoring capabilities matching the monitoring requirements of the new consumer.

For at least the reasons outlined above, Applicant respectfully submits that Tanaka and Colby, either individually or in combination, do not disclose, teach or suggest at least the present invention's features of: "determining monitoring requirements of said new consumer, wherein said monitoring requirements include: a list of data resources monitored for said new consumer; metrics of said monitoring data for said new consumer; a data format for monitoring data provided to said new consumer; a time interval between periods of sending said monitoring data to said new consumer; and actions taken during failure of said data resource; comparing the monitoring requirements of the new consumer with monitoring capabilities of a plurality of monitoring entities to identify at least one monitoring entity including monitoring capabilities matching the monitoring requirements of the new consumer, wherein: said monitoring entities monitor said data resources of said data processing network; and said monitoring capabilities including one or more of: a current set of data resources being monitored by each of said plurality of monitoring entities; a set of data resources which each of said plurality of monitoring entities is capable of monitoring; monitoring metrics which each of said plurality of monitoring entities is currently monitoring; monitoring metrics which each of said plurality of monitoring entities is capable of currently monitoring; a current monitoring period; and data format capabilities of each of said plurality of monitoring entities", as recited in currently amended, independent claims 1 and 32, and " a data storage unit for storing: monitoring requirements of a new consumer, said monitoring requirements including: a list of data resources monitored for said new consumer; metrics of said monitoring data for said new consumer; a data format for monitoring data provided to said new consumer; a time interval between periods of sending said monitoring data to said new consumer; and actions taken during failure of said data resource; and

monitoring capabilities of each of a plurality of monitoring entities, said monitoring capabilities including one or more of: a current set of data resources being monitored by each of said plurality of monitoring entities; a set of data resources which each of said plurality of monitoring entities is capable of monitoring; monitoring metrics which each of said plurality of monitoring entities is currently monitoring; monitoring metrics which each of said plurality of monitoring entities is capable of currently monitoring; a current monitoring period; and data format capabilities of each of said plurality of monitoring entities; and a monitoring manager, responsive to monitoring requirements of said new consumer, for comparing the monitoring requirements of the new consumer with monitoring capabilities of said plurality of monitoring entities stored in the data storage unit to identify at least one monitoring entity including monitoring capabilities matching the monitoring requirements of the new consumer, wherein said monitoring entities monitor said data resources of said data processing network", as recited in currently amended, independent claims 26 and 29. Accordingly, Tanaka and Colby, either individually or in combination, fail to render obvious the subject matter of currently amended, independent claims 1, 26, 29, and 32, and currently amended, dependent claims 6, 8-12, 14, 26-29, and 32 under 35 U.S.C. §103(a). The rejection of cancelled claims 2-5, 7, and 30 is moot. Withdrawal of the rejection of claims 1-12, 14, 26-30, and 32 under 35 U.S.C. §103(a) as unpatentable over Tanaka and Colby is respectfully solicited.

**B. The 35 U.S.C. 103(a) Rejection over Tanaka, Colby, and Koistinen**

**1. The Koistinen Disclosure**

The Final Action asserts that Tanaka in view of Colby does not explicitly teach initiating a negotiation between the consumer entity and a plurality of monitoring entities to select a best match, relative to other matches based on quality of service parameters, between the monitoring requirements of the consumer entity and the monitoring capabilities of the plurality of monitoring entities. (Page 8, lines 12-16). The Final Action then cites Koistinen for "teaching initiating a negotiation between the consumer entity and a plurality of monitoring entities to select a best match, relative to other matches based on quality of service parameters, between the monitoring requirements of the consumer entity and the monitoring capabilities of the plurality



of monitoring entities (Abstract, col. 2, lines 40-67). (Page 8, lines 17-21).

Koistinen discloses that in a distributed system, a method and system for negotiating a multi-category Quality of Service (QoS) agreement between a client and a server includes a client agent enabled to calculate an expected utility to a client of multiple multi-category QoS specifications. . . . (Abstract, lines 5 and col. 2, lines 42-45, which are cited by the Final Action).

## **2. Arguments**

Currently amended, independent claims 1 and 15 recite in relevant part,

"in response to a failure to identify at least one of the monitoring entities having monitoring capabilities matching all monitoring requirements of the new consumer, initiating a negotiation between the new consumer and said plurality of monitoring entities to select a best match, relative to other matches based on quality of service parameters, between the monitoring requirements of the new consumer and the monitoring capabilities of the plurality of monitoring entities".

Koistinen merely discloses negotiating a multi-category Quality of Service (QoS) agreement between a client and a server, which includes a client agent enabled to calculate an expected utility to a client of multiple multi-category QoS specifications.

The present invention includes at least the features of "in response to a failure to identify at least one of the monitoring entities having monitoring capabilities matching all monitoring requirements of the new consumer, initiating a negotiation". (emphasis added). That is, negotiating only occurs if there is a failure to identify at least one monitoring entity having monitoring capabilities matching all the monitoring requirements of the new consumer.

Nowhere, does Koistinen disclose, teach or suggest that his negotiating is conditioned upon a failure to identify at least one of the monitoring entities having monitoring capabilities matching all monitoring requirements of the new consumer, as does the present invention.

Instead, Koistinen merely discloses negotiating a multi-category Quality of Service (QoS) agreement between a client and a server.

For at least the reasons outlined immediately above with respect to Koistinen and with respect to the admission by the Final Action that Tanaka in view of Colby does not explicitly teach initiating a negotiation between the consumer entity and a plurality of monitoring entities to select a best match, relative to other matches based on quality of service parameters, between the monitoring requirements of the consumer entity and the monitoring capabilities of the plurality of monitoring entities (Final Action, page 8, lines 12-16), Applicant respectfully submits that Tanaka, Colby, and Koistinen, either individually or in combination, do not disclose, teach or suggest the present invention's features of "in response to a failure to identify at least one of the monitoring entities having monitoring capabilities matching all monitoring requirements of the new consumer, initiating a negotiation between the new consumer and said plurality of monitoring entities to select a best match, relative to other matches based on quality of service parameters, between the monitoring requirements of the new consumer and the monitoring capabilities of the plurality of monitoring entities", as recited in currently amended, claims 13 and 15. Accordingly, Tanaka, Colby, and Koistinen, either individually or in combination, fail to render obvious the subject matter of currently amended, claims 13 and 15 under 35 U.S.C. §103(a). Withdrawal of the rejection of claims 13 and 15 under 35 U.S.C. §103(a) as unpatentable over Tanaka, Colby, and Koistinen is respectfully solicited.

## II. Formal Matters and Conclusion

Claims 1, 6, 8-15, 26-29, and 32 are pending in the application.

Applicant respectfully submits that entry of currently amended claims xx is proper because the currently amended claims will either place the application in condition for allowance or in better form for appeal.

With respect to the rejections of the claims over the prior art, Applicants respectfully argue that the currently amended claims are distinguishable over the prior art of record. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejections to the claims.

In view of the foregoing, Applicants submit that claims 1, 6, 8-15, 26-29, and 32, all the claims presently pending in the application, are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest time possible.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary.

Please charge any deficiencies and credit any overpayments to Attorney's Deposit Account Number 09-0441.

Respectfully submitted,

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